

Pensions Remedy

Monday 20th May 2024



Cheshire
Fire & Rescue Service



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Purpose of today

- Update you on progress
- Explain reason for delays
- Outline some of the complexities
- Give you a chance to ask questions
- Listen to your concerns



Background

- Central Government review of public sector pensions in 2013
- Various Public Sector pension schemes reviewed and changed from final salary to career average including FFPS, LGPS, Police PS in 2014/15
- Introduction of 2015 Firefighters Pension Scheme with transitional protection for staff that were nearest to retirement age
- Following a legal challenge known as Sargeant in 2018, the courts determined that the protections given to members nearer to retirement were age discriminatory against younger members
- Outcome was Sargeant judgement (often referred to as 'McCloud')



The Sargeant (McCloud) Judgement Remedy

- Based on their age, older firefighters were allowed to stay in their original scheme (either FPS 1992 or FPS 2006) until retirement or for a time limited period, before moving to FPS 2015 at a defined point between 2015 and 2022. This age-based access to schemes was what was deemed age discriminatory in the FPS rules.
- To remove future discrimination all members were moved into the 2015 scheme from 1 April 2022
- To remedy the retrospective period - April 2015 to March 2022 – eligible staff must be given Remediable Service Statements (RSS) which compare the two sets of benefits
- This will enable them to choose which scheme benefits are better for them



Key Events Since Judgement

- July 2019 - Government accepted the judgement in relation to all schemes
- June 2020 - Home Office issue Immediate Detriment guidance (CFRS processed 5 cases under this)
- Oct 2021 - MOU for ID issued
- Dec 2021 - ID process paused due to unresolved issues with tax implications
- 1st April 22 – move all current FF's into 2015 scheme
- Oct 2023 – Final legislation came into effect



Consultations on New Legislation

- [Public Service Pensions and Judicial Offices Act 2022](#)
- [The Police and Firefighters' Pension Scheme \(Amendment\) regulations 2022](#)
- [The Firefighters Pension Scheme \(Remediable Service\) regulations 2023](#)
- [The Public Service Pensions Exercise of Powers Compensation and Information Directions 2022.pdf \(publishing.service.gov.uk\)](#)

To allow for the tax implications of remedy to be rectified, through the powers in the Finance Act 2022, two sets of regulations have been consulted on and published.

- Tax (No 1) [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) Regulations 2023 \(legislation.gov.uk\)](#)
- Tax (No 2) [The Public Service Pension Schemes \(Rectification of Unlawful Discrimination\) \(Tax\) \(No. 2\) Regulations 2023 \(legislation.gov.uk\)](#)



CFRS Pensions Administration Delivery Model



Internal Pensions Team
1.8fte
-Pay & Pensions Manager
-Pensions Officer

Contract for BAU



Contract for Pension Remedy



3 FRS Clients



33 Police Clients



Timescales for Remedy Implementation

Scheme Advisory Board agreed nationally the prioritisation of different cohorts, with RSS's set to go out in the following order

| Pensioner Member | Indicative timetable to receive RSS |
|---|-------------------------------------|
| Ill Health Pensioner | October 2023 to March 2024 |
| Beneficiaries (ill health, taper protected and unprotected) | October 2023 to May 2024 |
| Taper Protected Pensioner | October 2023 to November 2024 |
| Unprotected Pensioner | October 2023 to November 2024 |



June 2024

Implementation date within legislation is **31st March 2025**



Remedy Implementation Progress

October – December 2023

- Spike in retirements
- Testing software (more issues than anticipated)
- Awaiting RSS templates to be designed (finalised at beginning of January)

January – April 2024

- Tax on interest issue raised (ongoing)
- Development of RSS templates for beneficiaries
- Development of automated solution to speed up calculations
- Ongoing testing of software
- Provision of manual RSSs for members who retired ill-health
- Indicative timescales for ill-health and beneficiary cases extended to end of June 2024



Tax Issues

- All public sector pension schemes expected interest payments to be non-taxable
- At the end of January 24, HMRC confirmed interest on pension and lump sums would be taxable where it exceeds the commercial rate of interest (Bank of England + 1%)
- In February 24 details were provided about how this tax should be calculated.
- In March 24 further delays due to ongoing policy decision needed by Treasury about how interest should be calculated
- At the end of April 24, HMRC confirmed a change of stance on how interest should be calculated. Reference to commercial rate removed.
- FRAs are awaiting a calculator from the Government Actuary's Department to complete interest calculations. This calculator can't be developed until all remaining issues have been clarified
- No timescales on when this will be resolved or when final policy decisions will be made.
- Scheme Advisory Board wrote to HMRC and Treasury recently seeking clarity



The National Climate

- Lack of progress being made in many FRS's (and Police Forces) due to Pension Administrators not being provided with the required data or completed ill-health re-assessments
- RSS templates (being developed nationally) are not yet all available
- Frustration across many FRS's due to lack of clear guidance from HMRC, HMT, Home Office in relation to treatment of tax, interest payable, calculators, templates
- Concern from senior Fire Officers that Pension Administrators are not making enough progress in accordance with published timescales
- In March 24, LGA confirmed that most FRS's in similar position of not having sent out RSS's. In May 24 this remains largely the same position.
- Whilst some FRAs are now moving forwards with the ill health and beneficiary cohorts (without interest), the majority have paused RSS rollout until interest issue is resolved





The Climate in Cheshire

- FOI requests received in respect of the progress being made
- Complaints from pensioners – also via Fire Authority members and on social media
- Relatively small number of cases involved but concerns about XPS's ability to meet agreed deadlines
- Retired staff believe other FRS's are in a more advanced position than CFRS

How have CFRS supported staff / ex-staff

- Internet/intranet site with information updated on a regular basis
- Individual letters, and Newsletters sent out to those affected
- Offer of support for anyone suffering from financial hardship
- Asked XPS to ensure they communicate with retirees
- Individual meetings and Teams sessions in relation to the Immediate Detriment process
- We are engaging with people in person
- Have sought assurances from XPS re delivery of remedy



What is the situation for staff who retired before 1st October 2023

- Depending on their status, they should receive an RSS from XPS by the relevant timescale, and by 31st March 2025 at the very latest
- When they receive their RSS they have 12 months to decide on keeping their current benefits or changing to legacy scheme benefits
- Once they have communicated their choice, XPS are responsible for paying the correct benefits and the payment of any arrears on the next available pensions payroll
- Pension contributions, tax, and interest must be made good



What issues still need to be resolved?

- Injury to feelings compensation through the Employment Tribunal system to claimants in first round in 2015
- Contingent Decisions – guidance issued, we will need to communicate to members
- Ongoing issues around interest, awaiting guidance
- XPS still awaiting implementation of software solution to automate their processes
- Awaiting central guidance on compensation claims for other losses





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